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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,119	02/01/2002	Anne-Marie Caminade	P/3610-22	9391

2352 7590 08/22/2003

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NEW YORK, NY 100368403

EXAMINER

PRYOR, ALTON NATHANIEL

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 08/22/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/936,119

Applicant(s)

CAMINADE ET AL.

Examiner

Alton N. Pryor

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-33, 35-40, 42, 45-47, 51 and 55-57, 59, 60 is/are rejected.
- 7) ☒ Claim(s) 34, 41, 43, 44, 48-50, 52-54 and 58 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Duplicate Claim Warning

Applicant is advised that should claim 55 be found allowable, claim 57 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 59,60 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 59 and 60 are unclear. Is the composition of claims 35 and 28 being applied to the situs of crops?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 28-31,35,40,42,45,46,51,55-57 are rejected under 35 U.S.C. 102(b) as being anticipated by Hedstrand et al (US 5560929; 10/1/96). Hedstrand teaches a composition that can exist in the form of a gel, and the gel can be formulated into a powder. See column 7 lines 16-29. The gel composition comprises Mn, Cu (actives – plant growth regulators) and dendrimer having amino groups such as amine-terminated poly(ethyleneimine) dendrimer. This specific dendrimer has a 2 carbon (ethyl) moiety. See column 6 lines 56-63, column 3 lines 55-64. Hedstrand teaches that the dendrimer comprises a core and branches attached to the core and an amine terminated group for complexing with the Mn, Cu. See column 3 lines 43-64. Hedstrand teaches that the gel composition can be mixed with a carrier system such as a toluene/water mixture. See column 7 lines 16-40, Hedstrand partially removes solvent to arrive at the powdered form of the dendrimer. See column 7 lines 16-28. Note that Zhang et al (CN 1138945; 1/1/97) discloses that copper and manganese are plant growth regulators.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 32-34,36-39,47,52,53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hedstrand as applied to claims 28-31,35,40,42,46,47,51,55-57 above. See 35 USC 102(b) rejection above. Hedstrand teaches all that is recited in claims 32-34,36-39,47,52,53 except for the composition: comprising 5-95% active and

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0.5-50% dendrimer; having 28.5/98.5 or 28/28 or 28.8/98.2 dendrimer/water ratio; or having at least 10% dendrimer identical. It would have been obvious to one having ordinary skill in the art to make a composition comprising the optimum amounts of water, active and dendrimer. One would have been motivated to do this in order to develop a dendrimer that would have been effective in associating or chelating with metal ions. It is very possible that the optimum amounts active, dendrimer, and water would have fallen within the broad ranges claimed.

Claim Objection / Allowable Subject Matter

Claims 34,41,43,44,48-50,52-54,58 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not teach or suggest the instant gelled comprising releasing at least 50 or 80% of the active, dendrimers having the terminal groups of claim 41; dendrimers attaching to elements of group VA of Periodic Table; dendrimer having phosphorus bonds, having cavity and space of claims 48,49. The prior art does not teach or suggest making the instant invention comprising heating the mixture for 0.25 – 45 days at 60-65 degree C. The prior art does not teach or suggest the application of the composition to a surface as claimed in claim 58. The elected gel composition comprising fenamidone (active), dendrimer having core, branches attaching to core, and terminal groups attaching to the branches is not taught or suggested by the prior art.

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Telephonic Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton N. Pryor whose telephone number is 703 308-4691. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 703-308-2927. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1235.

 **ALTON N. PRYOR
PRIMARY EXAMINER**

Alton Pryor
Patent Examiner
AU 1616